discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Oregon-California potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met on March 15, 1995, and unanimously recommended a budget of $46,200, $1,100 more than last season. Budget items for 1995–96 which have increased compared to those budgeted for 1994–95 (in parentheses) are: Annual report, $1,500 ($1,400), audit, $1,000 ($800), inspection fees, $2,500 ($2,000), and miscellaneous, $600 ($300). All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of $0.006 per hundredweight, the same as last season. This rate, when applied to anticipated shipments of 7,920,000 hundredweight, will yield $47,520 in assessment income, which will be adequate to cover budgeted expenses. Funds in the reserve on June 30, 1995, estimated at $27,000, will be within the maximum permitted by the order of one fiscal period's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal period begins on July 1, 1995, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 947 is amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR part 947 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 947.246 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 947.246 Expenses and assessment rate.

Expenses of $46,200 by the Oregon-California Potato Committee are authorized, and an assessment rate of $0.006 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: May 31, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–13792 Filed 6–5–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1436–94]

RIN 1115–AC71

Immigrant Petitions; Religious Workers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by providing that all persons, other than ministers, immigrating to the United States as religious workers must immigrate or adjust status to permanent residence before October 1, 1997. This rule implements section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (Act) which provides that religious workers who have 2 years of membership and experience in a religious occupation or vocation qualify as special immigrant religious workers. By statute, this immigrant category for religious workers expires on October 1, 1997. This rule codifies, in regulatory form, the October 1, 1997, statutory deadline.

EFFECTIVE DATE: June 6, 1995.

FOR FURTHER INFORMATION CONTACT: Michael W. Straus, Senior Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION: Section 151(a) of the Immigration Act of 1990 (IMMACT), Public Law 101–649, dated November 29, 1990, created a new special immigrant category for religious workers and ministers by amending section 101(a)(27)(C) of the Act. In order to qualify as a minister, the applicant must be an ordained minister of a religious denomination and have carried on the vocation of minister during the 2 years immediately preceding the application for admission. Section 101(a)(27)(C) of the Act also provided special immigrant status for persons, other than ministers, who will work in a religious occupation or vocation for a religious organization in a professional or other capacity. Unlike the provision for ministers, which does not contain a sunset provision, section 101(a)(27)(C)(ii) (II) and (III) of the Act, as enacted by section 151(a) of IMMACT, provided that the other two types of religious workers must ''seek to enter the United States * * * before October 1, 1994.'' In October of 1994, the Immigration and Nationality Technical Corrections Act (INTCA), Pub. L. 103–416, extended the sunset date to October 1, 1997.

As originally promulgated, the regulations implementing IMMACT provided that petitions for professional religious workers and other religious workers must be filed on or before September 30, 1994. See 56 FR 60897–60913, dated November 29, 1991. The statute, however, requires that immigrant religious workers (with the

exception of ministers) actually enter the United States before October 1, 1994 (now October 1, 1997). In other words, in order to immigrate under the special immigrant religious worker category, aliens who are not ministers must have a petition approved on their behalf and either enter the United States as an immigrant or adjust their status to permanent residence before October 1, 1997.

For the sake of clarification, the Service published an interim regulation in the Federal Register which amended 8 CFR 204.5(m)(1) to provide specifically that aliens must obtain permanent resident status through immigration or adjustment of status on or before September 30, 1994, to qualify under the special immigrant religious worker category. See 59 FR 27228–29, dated May 26, 1994. The public was provided with a 30-day period, ending on June 27, 1994, to comment on the interim regulation. The Service received one comment.

Discussion of the Comment

The commenter stated that the Service misinterpreted the term ''seek to enter the United States before October 1, 1994'' in section 101(a)(27)(C)(ii) (II) and (III) of the Act. The commenter contended that the term ''seek to enter'' means that the religious worker initiate the immigration process before October 1, 1994. The comment urged the Service to allow special immigrant religious workers to meet the cut-off date by filing a petition before October 1, 1994. In the alternative, the commenter stated that the October 1, 1994, cut-off date could be met by applying for an immigrant visa at a U.S. consulate or by applying for adjustment of status under section 245 of the Act before October 1, 1994.

The Service disagrees with the commenter's interpretation of the statutory language. The language of section 101(a)(27)(C)(ii) of the Act requires that a qualifying religious worker seek to enter the United States before October 1, 1997. Section 101(a)(13) of the Act provides that an '' 'entry' means any coming of an alien into the United States.'' Reading section 101(a)(27)(C)(ii) of the Act in conjunction with section 101(a)(13) of the Act, it is clear that not only must the religious worker apply for admission to the United States as an immigrant before October 1, 1997, but he or she must actually seek to ''come into,'' i.e., arrive in the United States with an immigrant visa before October 1, 1997.

As stated in the preamble to the interim rule, a petition must be filed with the Service to establish the alien's eligibility for special immigrant status as a religious worker. See section 204(a)(1)(E) of the Act. At this initial step, an alien is merely seeking to be found classifiable under section 203(b)(4) of the Act. After the Service approves a petition, the next step in this process is an application for an immigrant visa at a U.S. consulate. See section 222 of the Act. After the consulate issues an immigrant visa, the alien must present himself or herself at a Port-of-Entry and apply to enter the United States. See section 221(e) of the Act. It is only at this step in the process that the alien is deemed to be seeking to enter the United States as a special immigrant. Further, it is only when the alien is actually admitted to the United States that he or she affects an ''entry.'' The term ''seek to enter before October 1, 1997,'' therefore, refers only to an alien who is applying for admission to the United States as an immigrant before that date.

This reading of section 101(a)(27)(C) of the Act is consistent with the statutory scheme of the Act. Congress, by using the language ''seek to enter before October 1, 1997,'' evidenced its intent to establish the cut-off date as the time the alien actually enters the United States as an immigrant. Had Congress intended to set the cut-off date as the date a petition was filed with the Service on behalf of the alien religious worker or the date the alien applied for adjustment of status, it would have specifically provided so. Throughout the Act, Congress has enacted provisions using cut-off dates based on the time of application for permanent residence rather than entry. For example, the special immigrant category for certain employees of international organizations and their families requires applicants to apply for an immigrant visa or adjustment of status before a certain date. See section 101(a)(27)(I) of the Act. In addition, the Chinese Student Protection Act of 1992, Pub. L. 102–404, provides that a qualified alien must apply for adjustment of status during a 1-year application period, beginning July 1, 1993. See also section 2(d) of the Immigration Nursing Relief Act of 1989, Pub. L. 101–238.

This interpretation, and consequently the interim rule, is consistent with the Department of State regulation which provides that an immigrant visa issued on behalf of a special immigrant religious worker, other than a minister, shall be valid no later than September 30, 1994. See 22 CFR 42.32(d)(1)(ii). The Service notes that, although the Department of State's regulation erroneously makes reference to a ''religious worker'' as defined in 8 CFR 204.5(l), rather than 8 CFR 204.5(m), it is clear that this provision can only refer to an alien described in section 101(a)(27)(C) of the Act, other than a minister of religion.

Since the sole amendment to section 101(a)(27)(C)(ii) of the Act made by the INTCA was the extension of the sunset date to October 1, 1997, the final regulation will provide that religious workers, other than ministers, must obtain permanent resident status through immigration or adjustment of status before October 1, 1997, in order to immigrate as special immigrant religious workers.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely clarifies a statutory deadline for a limited number of aliens to become special immigrant religious workers.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will have no effect on family well-being.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Aliens, Employment, Immigration, Petitions.

Accordingly, the interim rule amending 8 CFR part 204 which was

published at 59 FR 27228–27229 on May 26, 1994, is adopted as a final rule with the following change:

PART 204—IMMIGRANT PETITIONS

1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255; 8 CFR part 2.

§ 204.5 [Amended]

2. In § 204.5, paragraph (m)(1) is amended in the last sentence by revising the entry for the year ''1994'' to read: ''1997''.

Dated: May 8, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–13805 Filed 6–5–95; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135

[Docket No. 18510; SFAR No. 38–11]

RIN 2120–AF73

Special Federal Aviation Regulation No. 38–2; Certification and Operating Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment establishes a new termination date for Special Federal Aviation Regulation [SFAR] No. 38–2, which contains the certification and operating requirements for persons transporting passengers or cargo for compensation or hire. The current termination date for SFAR 38–2 is June 1, 1995. Because the FAA has not completed a rulemaking process to consolidate and codify the certification and operations specifications requirements, an extension of the termination date is necessary. If this rulemaking process is completed before the new termination date of June 1, 1996, the FAA intends to rescind SFAR 38–2 as part of that rulemaking.

DATES: Effective June 1, 1995, SFAR 38–2 terminates June 1, 1996.

Comments must be received on or before August 1, 1995.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Docket No. 18510, 800 Independence Avenue, SW., Washington, DC 20591, or deliver comments in triplicate to: Federal Aviation Administration, Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC. Comments may be examined in the Rule Dockets weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Davis, Project Development Branch, AFS–24, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267–8096.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1978, the FAA issued SFAR 38 [43 FR 58366; December 14, 1978] as a consequence of the Airline Deregulation Act of 1978 (ADA or Act) (Pub. L. 95–504, 92 Stat. 1705). That act expresses the Congressional intent that the Federal Government diminish its involvement in regulating the economic aspects of the airline industry. To accomplish this, Congress directed that the Civil Aeronautics Board (CAB) be abolished on December 31, 1984, and that certain of its functions cease before that date. Anticipating its sunset, the CAB itself curtailed or suspended much of its regulatory activity during the period 1979–1984. By January 1, 1985, the remaining CAB functions were transferred to the Department of Transportation (DOT).

Because some aspects of FAA safety regulations relied upon CAB definitions and authority, the FAA found it necessary in 1978 to adopt an interim measure to provide for an orderly transition to the change in economic regulatory activities. This action was consistent with the Congressional directive contained in Section 107(a) of the Act that the deregulation of airline economics result in no diminution of the high standard of safety in air transportation that existed when the ADA was enacted. SFAR 38 [43 FR 58366; December 14, 1978] set forth FAA certification and operating requirements applicable to all ''air commerce'' and ''air transportation'' operations for ''compensation or hire.'' (SFAR 38 did not address Part 133 External Load Operations, Part 137 Agriculture Aircraft Operations, or Part 91 training and other special purpose operations.)

On December 27, 1984, the FAA issued SFAR 38–1 [50 FR 450; January 4, 1985], which merely extended the termination date of SFAR 38 and allowed the FAA time to propose and receive comments on revising SFAR 38.

On May 28, 1985, the FAA issued SFAR 38–2 [50 FR 23941; June 7, 1985], which updated SFAR 38 in light of changes since 1978 and clarified provisions stating which FAA regulations apply to each operator (including air carriers) and each type of operation. This action was necessary because of the changes in the air transportation industry brought about by economic deregulation. Before deregulation, economic certificates were rigidly compartmentalized, and each air carrier typically was authorized to conduct only one type of operation (domestic, flag, or charter (e.g., supplemental)). The safety certificate issued to the air carrier by the FAA paralleled the authorization granted in the air carrier's economic certificate. Economic deregulation broke down the barriers between the various types of operations. The economic authority granted an air carrier by the DOT is no longer indicative of the safety regulations applicable to the type of operation authorized by the FAA. Thus, it was necessary for the FAA to establish guidelines to determine what safety standards were applicable to an operator's particular operation.

Since that time, the FAA has proposed rulemaking to codify the certification and operations specifications requirements currently found in SFAR 38–2 into a new part 119 [Notice No. 88–16] [53 FR 39852; October 12, 1988].

On April 11, 1990, the FAA reopened the comment period for Notice No. 88–16 [55 FR 14404; April 17, 1990] for comments on the definition of ''scheduled operation'' and the notification requirement for changes to operations specifications for a period of 30 days. The reopened comment period closed May 17, 1990. Based on the complexity of comments received, the FAA subsequently published an SNPRM on June 8, 1993 [58 FR 32248]; the comment period closed July 23, 1993.

Recently the FAA issued a notice proposing that many part 121 requirements should be imposed on certain part 135 operators [60 FR 16230; March 29, 1995]. If that proposal is adopted, the rules specifying the applicability of parts 121, 125, and 135 would be codified in a new part 119. In that same NPRM, the FAA proposed to rescind SFAR 38–2 if a final rule affecting commuter operators and establishing a new part 119 is issued. However, in the meantime, SFAR 38–2 contains the current requirements for certification and operations